

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 149 – SB 280

March 29, 2018

SUMMARY OF ORIGINAL BILL: Prohibits judicial diversion for persons charged with incest under Tenn. Code Ann. § 39-15-302.

CORRECTED FISCAL IMPACT OF ORIGINAL BILL:

Decrease State Revenue – \$800/TBI

Increase State Expenditures – \$68,600/Incarceration*

SUMMARY OF AMENDMENT (016125): Deletes and rewrites the effective clause to change the effective date to July 1, 2018.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Decrease State Revenue – \$800/TBI

Increase State Expenditures – \$102,800 Incarceration*

The Governor's FY18-19 proposed budget (page B-24) and the administration's budget amendment include funding in the amount of \$102,900 from the General Fund to cover the incarceration costs.

Assumptions for the bill as amended:

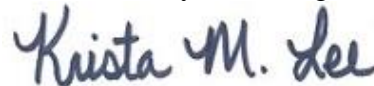
- Statistics from the Administrative Office of the Courts show an average of 33.6 convictions for judicial diversion each year over the last five years and 2.4 defendants granted judicial diversion for incest each year over the last five years.
- Further, statistics from the Department of Correction (DOC) show an average of 12.4 admissions, or 37 percent of annual convictions, each year for incest.
- Under common practice, a person granted judicial diversion will be granted probation if the person violates the terms of judicial diversion.
- Prohibiting judicial diversion for incest will result in these defendants being put on probation, for which they will likely serve the remainder of their sentence for violating probation.

- It is assumed that the proposed legislation will result in one person each year being admitted into DOC custody.
- Statistics from the DOC show the average time served for incest is 3.96 years.
- According to the DOC, the average operating cost per offender per day for calendar year 2018 is \$71.08.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offenders serving 3.96 years (1,446.39 days) at a cost of \$102,809 (\$71.08 x 1,446.39 days) per offender.
- The proposed legislation does not create any new felony cases, but rather affects the disposition of current cases. It is assumed that the courts, public defenders, and district attorneys can accommodate any impact to their operations within their existing resources.
- The Tennessee Bureau of Investigation (TBI) receives \$350 for expungements completed from the successful completion of a diversion program under Tenn. Code Ann. §§ 40-15-102—40-15-106. The proposed legislation will reduce the number of expungements processed by TBI.
- The proposed legislation will decrease the number of expungements that TBI process for incest by an average of 2.4 expungements per year.
- The proposed legislation will result in a recurring decrease in state revenue to TBI of \$840 (2.4 expungements x \$350).

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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